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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91213592
Party	Defendant Vapelux Ltd.
Correspondence Address	JON K PERALA PERALA LAW OFFICE 332 S MICHIGAN AVE, SUITE 1032 CHICAGO, IL 60604 UNITED STATES jkperala@peralaw.com
Submission	Answer
Filer's Name	Jon K. Peralá
Filer's e-mail	jkperala@peralaw.com
Signature	/jon k. perala/
Date	12/30/2013
Attachments	91213592 ANSWER.pdf(89741 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application Serial No.: 85/780,501
Published: May 14, 2013

ALTADIS U.S.A. INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91213592
)	
VAPELUX, LTD.,)	
)	
Applicant)	
)	
)	
)	

ANSWER AND AFFIRMATIVE DEFENSES

Vapelux, Ltd. (“Applicant”), the owner of and applicant named in application Serial No. 85/780,501 (“the Application”) files the following Answer and Affirmative Defenses in response to the Notice of Opposition filed by Altadis U.S.A. Inc. (“Opposer”).

ANSWER

Applicant denies the allegations contained in the first unnumbered, introductory paragraph of the Notice of Opposition, namely, that Opposer will be damaged by Applicant’s registration of the mark shown in application Serial No. 85/780,501.

1. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 1 of the Notice of Opposition and, therefore, denies same.
2. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 2 of the Notice of Opposition and, therefore, denies same.
3. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 3 of the Notice of Opposition and, therefore, denies same.

4. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 4, subparagraphs (a) through (c), of the Notice of Opposition and, therefore, denies same.

5. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 5, subparagraphs (a) through (q), of the Notice of Opposition and, therefore, denies same.

6. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 6 of the Notice of Opposition and, therefore, denies same.

7. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 7 of the Notice of Opposition and, therefore, denies same.

8. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 8 of the Notice of Opposition and, therefore, denies same.

9. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 9 of the Notice of Opposition and, therefore, denies same.

10. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 10 of the Notice of Opposition and, therefore, denies same.

11. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 11 of the Notice of Opposition and, therefore, denies same.

12. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 12 of the Notice of Opposition and, therefore, denies same.

13. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 13 of the Notice of Opposition and, therefore, denies same.

14. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 14 of the Notice of Opposition and, therefore, denies same.

15. Applicant denies the allegations set forth in paragraph 15 of the Notice of Opposition.

16. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 16 of the Notice of Opposition and, therefore, denies same.

17. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 17 of the Notice of Opposition and, therefore, denies same.

18. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 18 of the Notice of Opposition and, therefore, denies same.

19. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 19 of the Notice of Opposition and, therefore, denies same.

20. Applicant admits the allegations set forth in paragraph 20 of the Notice of Opposition.

21. Applicant admits the allegations set forth in paragraph 21 of the Notice of Opposition.

22. Applicant admits that the fleur de lis in the center of Applicant's mark in U.S. Trademark Application Serial Number 85/780,501 is displayed in gold coloring but denies that said fleur de lis is a prominent feature of Applicant's mark.

23. Applicant denies that its mark in U.S. Trademark Application Serial Number 85/780,501 is confusingly similar in appearance, meaning, commercial impression, or in any other way to any registered mark of Opposer's referenced in paragraphs 4 and 5 of the Notice of Opposition. Applicant is without knowledge or information sufficient to form a belief as to the remaining allegations set forth in paragraph 23 of the Notice of Opposition and, therefore, denies same.

24. Applicant denies the allegations set forth in paragraph 24 of the Notice of Opposition.

25. Applicant denies the allegations set forth in paragraph 25 of the Notice of Opposition.

26. Applicant denies the allegations set forth in paragraph 26 of the Notice of Opposition.

27. Applicant denies the allegations set forth in paragraph 27 of the Notice of Opposition.

28. Applicant incorporates herein by reference, its responses to paragraphs 1- 27 of the Notice of Opposition as set forth above.

29. Applicant denies the allegations set forth in paragraph 29 of the Notice of Opposition.

30. Applicant denies the allegations set forth in paragraph 30 of the Notice of Opposition.

31. Applicant denies the allegations set forth in paragraph 31 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

Applicant reserves the right to rely on all further affirmative defenses that become available or appear during discovery proceedings in this action, and Applicant reserves the right to amend this Answer and Affirmative Defenses for the purposes of asserting any such additional affirmative defenses.

1. Opposer fails to state a claim upon which relief can be granted.

2. There is no likelihood of confusion between Applicant's and Opposer's respective marks, given the weakness of Opposer's "Fleur de lis" mark, which is afforded a limited scope of protection.

3. There is no likelihood of confusion between Applicant's and Opposer's respective marks, given that the similar fleur de lis symbol used by Applicant is only an insignificant portion of Applicant's overall mark, which is dominated by the wording REGCIG.

WHEREFORE, Applicant prays that this Opposition be dismissed and the registration of U.S. Application Serial No. 85/780,501 be granted.

Respectfully submitted,

Dated: December 30, 2013

/jon k. perala/
Jon K. Perala
Perala Law Office
332 S. Michigan Ave.
Suite 1032
Chicago, Illinois 60604

Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES has been served on Russell D. Dize, Counsel for Opposer, by mailing said copy on December 30, 2013, via First Class Mail, postage prepaid to:

Russell D. Dize
Grimes LLC
488 Main Ave.
Norwalk, Connecticut 06851

/jon k. perala/
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